

**REMARKS****Status of the Application**

The abstract of the disclosure stands objected to as exceeding 150 words.

Claims 1-2, 4, 6-8 and 10-17, 20, 22-23, 25-28, 30, 32-33 and 35 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No 5,340,971.

Claims 3, 5, 9, 18-19, 21, 24, 29, 31, and 37-39 merely stand objected to as being dependent upon a rejected base claim but allowable if rewritten in independent form.

Claim 34 is allowed.

Claims 1-39 are pending.

A Terminal Disclaimer is submitted concurrently herewith. A Revocation of Power of Attorney and Grant of New Power of Attorney is also submitted concurrently herewith.

**The Amendment to the Specification**

Applicants have amended the specification to include the cross-reference to Application No. 09/273,825 as required by 37 CFR § 1.78(a)(2). The benefit claim had been included in the Application Transmittal but the cross-reference was omitted in the specification due to a clerical error. Upon review of the application after receiving the Office Action, the omission was identified. MPEP § 201.11 (III)(D) states that “[t]he reference required by 37 CFR § 1.78(a)(2) or (a)(5) must be included in an ADS or the specification must contain or be amended to contain such reference in the first sentence following the title. If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR § 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in

37 CFR § 1.78(a), the Office will not require a petition under 37 CFR § 1.78(a) and the surcharge under 37 CFR § 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt.” Applicants respectfully submit that the filing receipt dated September 20, 2004 and the application transmittal letter dated February 6, 2002 both include the priority claim information. As such, Applicants respectfully submit that this amendment to include the cross-reference should be entered without petition or fee.

#### **The Objection to the Abstract of the Disclosure**

The abstract of the disclosure stands objected to as exceeding 150 words. Applicants have amended the abstract of the disclosure in accordance with the comments of the Examiner. Accordingly, Applicants respectfully request that the objection to the abstract of the disclosure be withdrawn.

#### **The Disposition of the Claims**

Claims 1-2, 4, 6-8 and 10-17, 20, 22-23, 25-28, 30, 32-33 and 35 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No 5,340,971. Claims 3, 5, 9, 18-19, 21, 24, 29, 31, and 37-39 merely stand objected to as being dependent upon a rejected base claim but allowable if rewritten in independent form. While Applicants do not concede to the comments of the Office Action, Applicants submit concurrently herewith a Terminal Disclaimer to facilitate allowance of the pending claims. Accordingly, Applicants respectfully submit that the rejection of claims 1-2, 4, 6-8 and 10-17, 20, 22-23, 25-28, 30, 32-33 and 35 under the judicially created doctrine of

obviousness-type double patenting is moot. Moreover, Applicants respectfully submit that pending claims 1-39 are in clear condition for allowance.

### **Conclusion**


In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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